

Vote #6

7/23/68

RESOLUTION OF BOSTON REDEVELOPMENT AUTHORITY APPROVING DISPOSITION
OF PARCEL 2B IN THE GOVERNMENT CENTER PROJECT AREA

WHEREAS, in April, 1966, the Authority advertised for proposals for the development of Parcel 2B in Government Center; and

WHEREAS, such a proposal was submitted by Government Center Developers, a business trust formed by Robert Grimes, and was approved by the Authority; and

WHEREAS, a Letter of Intent has been executed on behalf of Government Center Developers and accepted by the Authority on July 21, 1966, setting forth the conditions under which Parcel 2B will be purchased and developed; and

WHEREAS, Government Center Developers has been superseded by Government Center Developers Co., a limited partnership; and

WHEREAS, a proposed Land Disposition Agreement has been presented to this meeting; and

WHEREAS, the proposed purchase price for said parcel of \$9.85 per square foot is based upon two independent appraisals of the value of said parcel for the proposed uses.

NOW THEREFORE BE IT RESOLVED BY THE BOSTON REDEVELOPMENT AUTHORITY:

1. That the procedure used for the disposition of Parcel 2B is the appropriate method of making the land available for redevelopment.
2. That the Land Disposition Agreement for the disposition of Parcel 2B to the developer named above is hereby approved, subject to HUD concurrence, and the Development Administrator is hereby authorized to execute such agreement on behalf of the Authority substantially in the form presented to this meeting; execution by the Development Administrator to be conclusive evidence that such agreement is substantially in the form presented to this meeting.
3. That the proposed price of \$9.85 per square foot is hereby approved and determined to be not less than the fair value of the parcel for the proposed uses.
4. That the developer possesses the qualifications and financial resources necessary to acquire and develop the land in accordance with the Government Center Urban Renewal Plan.

THIS AGREEMENT, made and entered into this day of and GOVERNMENT CENTER DEVELOPERS COMPANY, a limited partnership organized under the laws of the Commonwealth, with its principal office Boston, Massachusetts.

WHEREAS the parties hereto have agreed as follows:

ARTICLE I. DEFINITIONS

For the purposes of this Agreement, the following terms shall have the meanings, respectively, ascribed to them below:

(a) "City" shall mean the City of Boston, Massachusetts.

(b) "Authority" shall mean the Boston Redevelopment Authority, a public body politic and corporate, created pursuant to Chapter 121, Section 26QQ, of the Massachusetts General Laws (Ter.Ed.), as amended, and shall include any successor in interest which is a public body, whether by act of a party to this Agreement or by operation of law or otherwise.

(c) "Redeveloper" shall mean GOVERNMENT CENTER DEVELOPERS COMPANY, a limited partnership organized under the laws of the Commonwealth of Massachusetts, and having its principal office in Boston, Massachusetts, and shall include any successor in interest or assign, whether by act of a party to this Agreement or by operation of law or otherwise.

(d) The "Property" refers to Parcel 2B of the Government Center Urban Renewal Project Area, shown on the plan attached hereto as Exhibit A, together with a fee to the centerline of New Chardon Street (hereinafter referred to as the street) and to the centerline of Mayhew Way and Bulfinch Place (hereinafter referred to as malls) as said street and malls abut the property, all as shown on said attached plan.

(e) "Plan" shall mean the Government Center Urban Renewal Plan adopted by the Authority on June 5, 1963, and as it may be amended in accordance with the provisions therein contained, which Plan as amended to the date hereof is on file in the office of the Authority and in the office of the Clerk of the city (and a copy of which, as amended to the date hereof, has been marked Exhibit B and delivered to the Redeveloper, and is made a part hereof.) The "Term of the Plan" shall mean a period of 40 years commencing on May 25, 1964, the date of approval by the Boston City Council.

(f) "Design Proposal" shall mean the drawings, sketches, and plans submitted to the Authority, showing the general plan, elevations, dimensions, and character of the improvements to be erected on the Property by the Redeveloper including the type, amount, distribution, and area of the various uses on the Property, which Design was submitted to and approved by the Authority and is on file at the office of the Authority.

(g) "Architect" shall mean the firm of Mark M. Kiley Associates and F. Frederick Bruck, acting pursuant to a contract for architectural services with respect to the improvements to be erected on the Property a copy of which contract has been deposited with the Authority, which firm or contract shall not be changed without the prior written consent of the Authority.

(h) "Parcel" shall mean a portion of the Property which is conveyed or to be conveyed by means of a separate deed.

(i) "HUD" shall mean the Department of Housing and Urban Development of the United States, or any officer duly authorized to act in its behalf.

(j) "Final Preliminary Plans and Outline Specifications" shall mean the site plans, floor plans, elevations and sections, outline specifications, samples of materials, and models, developed to show the detailed architectural character of the improvements to be erected on the Property and their relationship to the approved Design Proposal, which Final Preliminary Plans and Outline Specifications were submitted to and approved by the Authority on July 6, 1967, and are on file at the office of the Authority, as they may be amended to reflect two additional stories.

(k) "Improvements" shall mean the buildings, structures and landscaping provided for in the Design Proposal and Final Preliminary Plans and Outline Specifications.

ARTICLE II. TRANSFER OF THE PROPERTY AND PAYMENT THEREOF

Section 201: Covenant of Sale

Subject to all the terms, covenants, and conditions of this Agreement, the Authority covenants and agrees to sell and convey, and the Redeveloper covenants and agrees to purchase the Property.

Section 202: Condition of Land to be Conveyed

(a) The Authority agrees that, at the time of sale and conveyance and delivery and possession of the Property, it shall be free and clear of all buildings, structures and improvements except streets, sidewalks and walls and foundations below the surface. All cellar holes and excavations shall be filled to the level of the surrounding ground in a good and workmanlike manner. The finished surface shall be rough graded so as to conform approximately to the street elevations of the area as they now exist.

All expenses (including current taxes, if any) relating to buildings or structures demolished or to be demolished shall be borne by the Authority, and any income or salvage received from such buildings prior to said sale and conveyance shall belong to the Authority.

(b) The Authority agrees that it shall without expense to the Redeveloper or public assessment against the Property, provide or cause to be provided (i) the street and sidewalk improvements called for in the Plan in such manner as to reasonably integrate the completion of such street and sidewalk improvements and landscaping with the completion of improvements and landscaping to be made on the Property by the Redeveloper and (ii) the public utility adjustments called for in the Plan in a timely manner so as not to impede the construction of the improvements on the Property.

(c) The Redeveloper hereby waives any and all claims to awards of damages, if any, to compensate for the closing, laying out, or change of grade of any street within or fronting or abutting on the Property which pursuant to the Plan is to be closed, laid out, or changed in grade.

Section 203: Deposit

The Authority hereby acknowledges the receipt of Five Hundred Dollars (\$500.00) in cash and Nine Thousand Eight Hundred Dollars (\$9,800.00) in an Irrevocable Letter of Credit, drawn on the Chase Manhattan Bank and addressed to the Authority. The sum

deposited, which shall be segregated from all other funds of the Authority, shall constitute a good faith deposit made by the Redeveloper for the performance of its obligation hereunder, and shall be disposed of in accordance with provisions hereinafter contained. Any interest earned on the deposit shall be the property of the Redeveloper and shall be paid by the Authority to the Redeveloper as and when received, provided, however, that nothing herein contained shall require the Authority to earn any interest on the deposit.

Section 204: Purchase Price and Payment Thereof

- (a) The total purchase price for the property shall be
\$138,234.90

Upon delivery of the deed to and Possession of the Property to the Redeveloper, the Redeveloper shall pay to the Authority an amount equal to the number of square feet in the property multiplied by \$9.85.

- (b) The payment shall be in cash or certified check drawn to the order of the Authority.

Section 205: Time of Sale and Conveyance

The sale and conveyance and delivery of possession of the Property and the purchase of the same by the Redeveloper shall take place on August 15, 1968. The closing will be at the office of the Authority or such other place as the Authority may designate, provided that the sale and conveyance and delivery of possession of the Property to the Redeveloper may take place at an earlier or later date upon written agreement of the parties hereto.

At the time of the transfer of title to the Property, the Authority shall also grant to the Redeveloper an easement for service access to Redeveloper's Property along Bulfinch Place, to pass and repass by foot or vehicle for purpose of maintenance and receiving deliveries, provided that (1) such easement shall not be exclusive but shall allow New England Telephone Company similar use of Bulfinch Place for access to its building abutting thereon and (2) such easement shall be subject to an easement of the City of Boston for public travel by foot on Bulfinch Place and for emergency vehicle use.

Section 206: Title and Instrument of Conveyance

The sale and conveyance of the Property shall be by quitclaim deed of good and marketable fee simple title, free and clear of all liens and encumbrances, but subject to and with the benefit of all conditions, covenants and restrictions set forth or referred to in this Agreement and the Plan or in either.

Section 207: Federal Tax Stamps and other Closing Costs

The Redeveloper shall pay the costs of any Federal or State documentary tax stamps which may be required, and all recording fees, including the cost of recording this Agreement.

Section 208: Adjustments

With respect to any tax period during which the Authority and the Redeveloper both had title to and possession of the Property, taxes allocable to the Property for such period shall be prorated between the Authority and the Redeveloper in proportion to the respective periods of ownership of title and possession by (1) the Authority and its predecessors in title on the one hand and (2) the Redeveloper on the other hand; provided, in no event shall the Redeveloper be liable for any taxes levied on any improvements located on the Property on any assessment date prior to the transfer to the Redeveloper of title to and possession of the Property unless pursuant to this Agreement the Redeveloper intends to purchase such improvements.

In the event the Property is exempt from taxation on the assessment date next preceding the transfer of title and possession by virtue of title being vested in the Authority or other tax exempt entity, the Redeveloper shall pay to the Authority, in lieu of a tax adjustment, a pro rata amount of the taxes which would have been payable to the City of Boston if the Property had not then been exempt from taxation, for that portion of the tax year during which the Redeveloper has title and possession, such amount to be paid by the Authority to the City upon receipt from the Redeveloper; provided, in no event shall the Redeveloper be liable for any taxes or payment in lieu of taxes for any improvements located on the Property on any assessment date prior to the transfer to the Redeveloper of title to and possession of the Property unless pursuant to this Agreement the Redeveloper intends to purchase such improvements.

Any payment owed by the Redeveloper under this Section shall be due and payable to the Authority at the time of closing set forth in Section 205 hereof.

Section 209: Application of Redeveloper's Deposit

Upon the sale and conveyance and delivery of possession of the Property as set forth in Section 205 hereof, the deposit made by the Redeveloper with the Authority in accordance with Section 203

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hereof shall be returned to the Redeveloper; provided, that the Redeveloper shall first have delivered to the Authority the contract and bond referred to in subsections (b) and (c) of Section 210 hereof, as well as certified copies of mortgage loan commitments adequate to finance construction of the improvements.

Section 210: Conditions Precedent to Conveyance

The Authority shall not be obligated to make conveyance of the Property, unless and until the following events have all occurred:

(a) Working drawings and specifications for the Property have been submitted by the Redeveloper and approved by the Authority as provided in Section 302 hereof,

(b) The Redeveloper and a responsible contracting firm have entered into a contract, satisfactory in form to the Authority, for the construction of the improvements on the Property, and a copy of this contract has been deposited with the Authority, which firm shall not be changed without the prior written consent of the Authority and copies of any amendments to such contract shall be deposited with the Authority.

(c) The Redeveloper has furnished the Authority with a performance and payment surety bond satisfactory in form to the Authority with the construction contractor as principal and the Redeveloper, the holder of any mortgage referred to in Section 402 hereof, and the Authority as beneficiaries, as their respective interests may appear. The penal amount of this bond shall not be less than 10% of the amount of the aforesaid construction contract. The penal amount of such bond shall not be less than ten (10) per cent of the amount of the aforesaid construction contract.

(d) The Redeveloper has furnished evidence satisfactory to the Authority that the Redeveloper has the equity capital and commitments for mortgage financing adequate for the construction of the improvements in accordance with said approved working drawings and specifications and the construction contract.

Section 211: Default by Authority

In the event that the Authority shall be unable to give title or to make conveyance or to deliver possession of the Property as provided for herein, the Authority shall use reasonable efforts to remove any defect in title or to deliver possession as herein agreed, as the case may be, and the Authority shall give written notice thereof to the Redeveloper at or before the time for

performance by the Authority hereunder, and thereupon the time for the performance by the Authority shall be extended for a period of ninety (90) days, or such longer period or periods as the Authority and the Redeveloper shall mutually agree; provided, however, that the Redeveloper shall have the election, either at the original or any extended time for performance, to accept such title as the Authority can deliver to the Property (if then cleared) and to pay therefor without deduction, in which case the Authority shall convey such title to the Redeveloper. In the event that at the expiration of the extended time the Authority shall be unable to give title or to make conveyance or to deliver possession as herein provided, then, (1) the deposit, together with any interest earned thereon (but only if the deposit has not been retained by the Authority pursuant to Sections 801 or 802 herein) shall be refunded; (2) all other obligations of the parties hereto shall cease; and (3) this Agreement shall be void and without recourse to the parties hereto. The acceptance of a deed by the Redeveloper shall be deemed a full performance and discharge of every agreement and obligation herein contained with respect to the Property except such as are, by the express terms hereof, to be performed after the delivery of the deed. The obligations of the Authority under Section 202(b) are to be performed after the delivery of the deed, if not completed at the date of delivery of the deed.

ARTICLE III. RESTRICTIONS AND CONTROLS UPON REDEVELOPMENT

Section 301: Redevelopment Pursuant to Plan

(a) The Redeveloper for itself and its successors and assigns, covenants, promises and agrees:

- (1) to devote the Property to the uses specified in the Plan, and to comply with the requirements therein specified: not to use or devote the Property or any part thereof for any use other than the said permitted uses or contrary to any of the applicable limitations or requirements of the Plan.
- (2) to give preference in the initial leasing of space in the improvements to be constructed on the Property to former commercial occupants of the Government Center Urban Renewal Area, to the maximum extent practicable,
- (3) not to discriminate upon the basis of race, creed, color or national origin in the sale, lease, or rental, or in the use or occupancy of the Property, or any improvements erected or to be erected hereon, or any part thereof.

(b) It is intended and agreed that the covenants in subsection (a) of this Section shall be contained in any instruments from the Authority to the Redeveloper or to its successors or assigns and in any instruments from the Redeveloper, its successors and assigns conveying the Property or any part thereof or interest therein and shall be expressed therein to be covenants running with the land.

(c) The covenants in subdivisions (1), and (2), of subsection (a) of this Section, and the covenants to the same effect which shall be contained in any instrument or instruments in accordance with the provisions of subsection (b) of this Section, and all rights and obligations under any of said covenants, shall terminate upon the expiration of the term of the Plan; and the covenant in subdivision (3) and the covenant to the same effect which shall be contained in any instrument or instruments in accordance with the provisions of subsection (b), and all rights and obligations under said covenant, shall terminate upon the expiration of one hundred (100) years from the date of the deed of the Property from the Authority to the Redeveloper.

(d) The Redeveloper agrees to take affirmative action to give maximum effect to the covenant in subsection (a) (2), and particularly covenants and agrees not to enter into agreements, leases, or other arrangements with lessees, tenants, or others pursuant to which the Redeveloper agrees not to lease space to any other commercial firm or firms, for any reason whatsoever, where the direct or indirect effect of the same would be to diminish the benefits to former commercial occupants intended by said subsection.

Section 302: Improvements and Submission of Plans

(a) The Redeveloper shall construct the improvements on the Property in accordance with the Design Proposal and the Final Preliminary Plans and Outline Specifications

(b) The Redeveloper shall not apply for a building permit for the construction of the Improvements without a prior certification to the Authority that the Improvements to be constructed or completed are in accordance with the working drawings and specifications approved by the Authority in accordance with the provisions of this Agreement. No Improvements shall be constructed which are not shown on the approved working drawings and specifications, nor shall any work be done on the construction of the Improvements if such work deviates from the approved working drawings and specifications in any of the following respects:

- (1) if the external appearance of the building (including roof and penthouse) is affected in any way.
- (2) if there are significant changes in materials or design in the interiors
- (3) if there are changes in materials, design or dimensions or color in the public lobbies, entrances, arcades, or open spaces, except and only to the extent that modifications thereof have been requested by the Redeveloper in writing and have been approved by the Authority.

In the event that the Redeveloper shall fail to comply with the foregoing requirements, the Authority may, within a reasonable time after discovery thereof by the Authority, direct in writing that the Redeveloper so modify or reconstruct such portions of the improvements which deviate from the approved working drawings and specifications or any approved modifications thereof, in order to bring them into conformance therewith. The Redeveloper shall promptly comply with such a directive, and shall not proceed further with construction of such portion of the improvements as are the subject of such a directive until such directive is complied with. Any delays in completion of the Improvements resulting from such modification or reconstruction shall not be a ground for the extension of the time limits of construction on the Property as provided for in Section 303 of this Agreement.

(c) In submitting plans and specifications to the Authority for its approval, the Redeveloper shall consider and take into account the planning and design objectives set forth in the Plan, and the Authority shall pursue such objectives in its review of and action upon the plans and specifications so submitted.

(d) Construction of the improvements hereunder shall be in conformity with all applicable State and local laws and regulations.

(e) The Redeveloper agrees to provide as part of the construction of improvements required pursuant to this Agreement, works of art satisfactory to the Authority, and agrees to expend for such works a sum not less than 1% of the total amount to be expended by the Redeveloper for such construction of improvements. The arts as used herein shall be deemed to include ornaments, arrangements, or effects created through the use of sculpture, bas-reliefs, mosaics, frescos, murals, prints, tapestries, paintings, and fountains which are sculptural in themselves or designed to enhance the setting of sculpture. The Redeveloper agrees to include in the final plans and specifications submitted to the Authority a general program for employment of art in the development to support and enhance the architectural and site design proposals.

(f) Submission of final plans and specifications pursuant to this Section 302 shall not be deemed to include submission of the final structural, plumbing, electrical or mechanical plans unless requested by the Authority.

(g) It is the general policy of the Authority that all new buildings constructed in Urban Renewal Project Areas shall be so designed as to accommodate the physically handicapped. In furtherance of this policy, plans and specifications shall include provisions conforming insofar as possible with the American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped, attached hereto and made a part hereof as Exhibit C. The Authority shall take into consideration the provisions and objectives of said Exhibit C in its review of and action upon plans and specifications submitted to it pursuant to this Agreement. Approval of the final plans and specifications shall be deemed to be compliance with this paragraph.

(h) Redeveloper shall erect and properly maintain at all times, as required by the conditions and the progress of the work, all necessary safeguards for the protection of workmen and the public. Redeveloper shall surround the construction site at the commencement of construction with a chain-link fence and shall maintain such fencing in place until construction on the site is substantially completed. Where chain-link fencing is impractical, Redeveloper may use other types of barriers or fencing with the prior written consent of the Authority.

Section 303: Time for Commencement and Completion of Construction

(a) Prior to the sale and conveyance and delivery of possession of the Property, the Authority shall permit the Redeveloper access thereto, whenever and to the extent necessary to carry out the purposes of this Agreement.

(b) The Redeveloper shall begin the construction of the improvements in accordance with the approved working drawings and specifications within fifteen (15) days of the delivery of the deed to and possession of the Property to the Redeveloper.

(c) The Redeveloper shall submit estimated progress schedule at the time construction is begun together with a listing of all subcontracts in excess of \$10,000, in a format to be approved by the Authority. This schedule, with actual progress shown, shall be resubmitted each month until the construction of Improvements has been completed. This submission shall be accompanied by a written report by the Redeveloper citing any such change to the progress schedule, analyzing the causes thereof, and, where applicable, noting corrective efforts.

(d) During the period of the Plan, all work of the Redeveloper shall be subject to inspection at all reasonable times by representatives of the Authority, of the City and of the United States of America, and the Authority shall notify the Redeveloper promptly of any defects observed by it.

(e) The Redeveloper shall diligently prosecute to completion the construction of the improvements and shall complete such construction not later than eighteen (18) months after commencement thereof.

Section 304: When Improvements Completed

When the Improvements have been built and are substantially ready for occupancy, the Authority shall promptly issue to the Redeveloper a Certificate of Completion which shall be in recordable form and shall be conclusive evidence of the fact that the improvements have been completed and that this agreement has been complied with.

If the Authority shall refuse or fail to issue such a Certificate in accordance with the provisions of this Section, the Authority shall within thirty (30) days after written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respect the Redeveloper has failed to complete the Improvements in accordance with the provisions of this Section, or is otherwise in default, and what measures or actions will be necessary, in the opinion of the Authority, for the Redeveloper to take or perform in order to obtain such a Certificate.

Section 305 Prompt Payment of Obligations

The Redeveloper shall make or cause to be made, (if the failure so to make would entitle any of the persons, firms or corporations hereinafter mentioned in this section, to a lien against the Property or any part thereof) in accordance with applicable contracts prompt payment of all monies due and legally owing to all persons, firms and corporations doing any work, furnishing any materials or supplies or renting any equipment to the Redeveloper or any of its contractors or subcontractors in connection with the development, construction, furnishing, repair or reconstruction of any of the Improvements.

Section 306: Nondiscrimination in Employment

The Redeveloper, for itself, and its successors and assigns, agrees that in the construction of the improvements in accordance with the provisions of this Agreement:

(a) The Redeveloper will not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Authority setting forth the provisions of this nondiscrimination clause.

(b) The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, creed, color or national origin.

(c) The Redeveloper will send to each labor union or representative of workers with which the Redeveloper has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the labor union or workers' representative of the Redeveloper's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Redeveloper will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Redeveloper will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor or the Secretary of Housing and Urban Development pursuant thereto, and will permit access at all reasonable times to the Redeveloper's books, records and accounts by the Authority, the Secretary of Housing and Urban Development, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Redeveloper's noncompliance with the nondiscrimination clauses of this Section, or with any of the said rules, regulations, or orders, the Agreement may be canceled, terminated, or suspended in whole or in part and the Redeveloper may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Redeveloper will include the provisions of Paragraphs (a) through (g) of this Section in every contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each such contractor, subcontractor, or vendor, as the case may be. The Redeveloper will take such action with respect to any construction contract, subcontract or purchase order as the Authority or the Department of Housing and Urban Development may direct as a means of enforcing such provisions, including sanctions of noncompliance: Provided, however, that in the event the Redeveloper becomes involved in, or

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is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Authority or the Department of Housing and Urban Development, the Redeveloper may request the United States to enter into such litigation to protect the interests of the United States.

For the purpose of including such provisions in any construction contract, subcontract, or purchase order, as required hereby, the first three lines of this Section shall be changed to read "During the performance of this Contract, the Contractor agrees as follows:", and the term "Redeveloper" shall be changed to "Contractor".

Section 307: Access to the Property by Authority, City and
Federal Personnel

To the extent of its authority to do so, the Redeveloper, its successors and assigns, shall from time to time until the expiration of the term of the Plan, at all reasonable hours, give to the duly authorized representatives of the Authority, the City and HUD free and unobstructed access for inspection purposes to any and all of the Improvements.

ARTICLE IV. TRANSFER AND MORTGAGE OF REDEVELOPER'S INTEREST

Section 401: General Terms Relating to Transfer of Interest in
Property by Redeveloper

(a) Prior to the completion of the construction of the Improvements, no parties shall make any transfer, or cause or suffer any transfer (except an involuntary transfer caused by the death or incapacity of any such party) to be made of his partnership interest without the written approval of the Authority; nor, without such approval shall there be by any other similarly significant change in the partnership by any other methods such as additional partners. The Redeveloper shall keep the Authority furnished with an up-to-date list of partners.

(b) The Redeveloper agrees that it will not, prior to the completion of the construction of the Improvements on the Property, make, or suffer to be made, any assignment or any manner of transfer of its interest in the Property or portion thereof or in this Agreement other than a contract or agreement to be performed subsequent to such completion, except as provided in subsection (c) of this Section 401 and Section 402.

Notwithstanding any provisions of this Agreement, the Redeveloper may, without restriction, execute and deliver leases of all or any portions of the Improvements or the Property, for occupancy after completion of the Improvements.

(c) Notwithstanding the provisions of subsection (b) of this Section 401, an assignment or transfer of the Redeveloper's interest in the Property or any portion thereof or in this Agreement may be made prior to the completion of the construction of the Improvements, upon compliance with the following:

(1) The transferee or transferees shall have been approved as such in writing by the Authority.

(2) The transferee or transferees, by valid instrument in writing, satisfactory to the Authority, shall have expressly assumed, for themselves and their successors and assigns and directly to and for the benefit of the Authority, all obligations of the Redeveloper provided for in this Agreement including the obligations of performance in accordance with the Plan, provided, that the fact that any transferee of, or any other successor in interest whatsoever to, the Property or any part thereof, shall, whatever the reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) relieve or except such transferee or successor of or from such obligations, conditions or restrictions, or deprive or limit the Authority of or with respect to any rights or limitations or controls with respect to the Property or the construction of the Improvements; it being the intent of this, together with other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership shall operate, legally or practically, to deprive or limit the Authority of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Property and the construction of the Improvements that the Authority would have, had there been no such transfer or change. Therefore, in the absence of a specific written agreement by the Authority to the contrary, no such transfer or approval thereof by the Authority shall be deemed to relieve the Redeveloper or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Improvements, from any of its obligations with respect thereto.

(3) Any consideration obtained by the Redeveloper from the transferee or transferees in excess of an amount representing the actual cost to the Redeveloper of the Property or interest therein transferred, including the cost of any improvements made thereon and carrying charges, shall be paid over to the Authority.

(4) There has been submitted to the Authority for review, and the Authority has approved, all instruments and other legal documents involved in effecting transfer.

(5) The Redeveloper and its transferee or transferees shall comply with such other conditions as the Authority may find desirable in order to achieve and safeguard the purposes of the Massachusetts Housing Authority Law and the Plan.

Section 402: Mortgage of Property by the Redeveloper

Notwithstanding any other provisions of this Agreement, the Redeveloper and each of its partners shall at all times have the right to encumber, pledge, or convey its rights, title and interest in and to the Property, or any portion or portions thereof, by way of bona fide mortgage to secure the payment of any loan or loans obtained by the Redeveloper to finance the development, construction, furnishing, repair or reconstruction of any of the Improvements required to be constructed by the Redeveloper on the Property by the Plan and this Agreement, or to refinance any outstanding loan or loans therefor obtained by the Redeveloper for any such purpose; provided, however, that the Redeveloper shall give prior written notice to the Authority of its intent to exercise such rights hereunder.

The holder of any such mortgage (including a holder who obtains title to the Property or portion thereof by foreclosure or action in lieu thereof, but not including a party who obtains title through such holder, or any purchaser at a foreclosure sale other than the holder) shall not be obligated by this agreement to construct or complete the Improvements or to guarantee such construction or completion, but shall have the options described in Section 403.

Section 403: Rights and Duties of Mortgagee upon Acquisition Prior to Completion

(a) If a mortgagee, through the operation of its contract to finance the Improvements required by this Agreement to be constructed by the Redeveloper on the Property, or by foreclosure, acquires fee simple title to the Property or any Parcel thereof prior to the completion of such Improvements, the mortgagee shall, at its option:

- (1) complete construction of such Improvements in accordance with the approved working drawings and specifications, the Plan and this Agreement and in all respects comply with the provisions of this Agreement; or

- (2) sell, assign or transfer, with the prior written consent of the Authority, fee simple title to the Property or Parcel to a purchaser, assignee or transferee who shall expressly assume all of the covenants, agreements and obligations of the Redeveloper under this Agreement in respect to the Property or Parcel, by written instrument satisfactory to the Authority and recorded forthwith in the Suffolk County Registry of Deeds; or
- (3) reconvey fee simple title to the Property to the Authority, in which event the provisions of Section 802 relative to resale shall apply.

(b) In the event that a mortgagee elects to complete construction pursuant to (a) (1) above, or sells, assigns or transfers pursuant to (a) (2) above, the Authority shall extend the time limits set forth in Section 303 herein as shall be reasonably necessary to complete construction of the Improvements, and upon such completion, the mortgagee or purchaser, as the case may be, shall be entitled to the Certificate of Completion pursuant to Section 304 hereof.

ARTICLE V. PROVISIONS RELATING TO OPERATION AND MAINTENANCE

Section 501: Maintenance and Operation of Improvements

The Redeveloper shall, at all times until the expiration of the term of the Plan, keep the Improvements in good and safe condition and repair unless such Improvements shall have become uninsurable, and, in the occupancy, maintenance and operation of such Improvements and the Property, comply with all laws, ordinances, codes and regulations applicable thereto.

Section 502: Additions or Subtractions to Completed Improvements

After the Improvements have been completed, the Redeveloper shall not until the expiration of the term of the Plan, reconstruct, demolish or subtract therefrom or make any additions thereto or extensions thereof, without the prior written approval of the Authority, if: (a) the external appearance of the building (including roof and penthouse) or Property is affected in any way; or (b) there are any changes in materials, design, dimensions or color in the public lobbies, entrances, arcades or open spaces. Any such reconstruction, demolition, subtraction, addition or extension shall, in all respects, conform to the provisions of the Plan. In the event the Redeveloper shall fail to comply with the foregoing requirement, the Authority may within a reasonable time after its discovery thereof direct in writing that the Redeveloper so modify, reconstruct or remove such portion or portions of the Improvements as were reconstructed, demolished or subtracted from or added to or extended without the prior written approval of the Authority. The Redeveloper shall promptly comply with such a directive, and shall not proceed further with such reconstruction, demolition, subtraction, addition or extension until such directive is complied with.

ARTICLE VI. INDEMNIFICATIONSection 601: Reimbursement of Authority in Respect of Certain
Litigation

To the extent the Authority prevails in any proceedings brought by it to enforce compliance with the provisions of this Agreement, the Redeveloper shall pay all reasonable costs and expenses which may be incurred by the Authority, and the amounts of all judgments and decrees. However, the holder of any mortgage permitted hereunder shall not be liable to the Authority for any costs, expenses, judgments, decrees or damages which shall have accrued against the Redeveloper, whether or not such holder shall subsequently acquire title to the Property.

ARTICLE VII. INSURANCE

Section 701: Insurance Coverage

(a) The Redeveloper shall, until the expiration of the term of the Plan, keep all of the insurable property and equipment in respect of the Property insured by fire and extended coverage insurance and additional risk insurance to the same extent and amount which is normally required by institutional mortgagees in the use of similar property and equipment in the City. Such insurance shall be in amounts sufficient to comply with the co-insurance clause applicable to the location and character of the property or equipment, and, in any event, in amounts not less than eighty per centum (or eighty per centum in the case of extended coverage insurance) of the current cash value of such property or equipment. All such insurance shall be by standard policies, obtained from financially sound and responsible insurance companies authorized to do business in Massachusetts, and shall have attached thereto a clause making the loss payable to the Redeveloper, the mortgagee, and subject to the rights of the mortgagee, the Authority, as their respective interests may appear.

(b) Each insurance policy shall be written to become effective at the time the Redeveloper becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as the Redeveloper is subject to such risk or hazard.

(c) Certificates of such policies and renewals shall be filed with the Authority.

Section 702: Non-Cancellation Clause

All insurance policies shall provide that any cancellation, change or termination thereof shall not be effective with respect to the Authority until after at least ten (10) days' prior notice has been given to the Authority to the effect that such insurance policies are to be cancelled, changed, or terminated at a particular time.

Section 703: Authority May Procure Insurance if Redeveloper Fails to Do So

In the event the Redeveloper at any time refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Agreement, the Authority, at its option, may procure or renew such insurance, and all amounts

of money paid therefor by the Authority shall be payable by the Redeveloper to the Authority; with interest thereon at the rate of six per centum (6%) per annum from the date the same were paid by the Authority to date of payment thereof by the Redeveloper. The Authority shall notify the Redeveloper in writing of the date, purposes, and amounts of any such payments made by it.

Section 704: Redeveloper's Obligations With Respect to Restoration and Reconstruction

(a) Whenever any Improvement, or any part thereof, constructed on the Property shall have been damaged or destroyed prior to the expiration of the term of the Plan, the Redeveloper shall proceed promptly to establish and collect all valid claims which may have arisen against insurers or others based upon any such damage or destruction. All proceeds of any such claim and any other monies provided for the reconstruction, restoration or repair of any such improvement, shall be deposited in a separate account of the Redeveloper or of any mortgagee.

(b) The insurance money and any other proceeds so collected shall be used and expended for the purpose of fully repairing or reconstructing the Improvements which have been destroyed or damaged to a condition at least comparable to that existing at the time of such damage or destruction to the extent that such insurance money and other proceeds may permit. Any excess proceeds after such repair or reconstruction has been fully completed shall be retained by the Redeveloper, subject to the rights of any mortgagee of record permitted hereunder.

(c) The Redeveloper, with the written approval of the Authority and any mortgagee of record permitted hereunder, may determine that all or any part of any such damage to or destruction of such Improvements shall not be reconstructed, restored, or repaired, and in such event, the proceeds of any claims against insurers or others arising out of such damage or destruction, to the extent not used for such reconstruction, restoration, or repair shall be retained by the Redeveloper.

(d) Any reconstruction or repair undertaken pursuant to the provisions of this section shall in all respects be in accordance with and conform to the provisions of the Plan.

Section 705: Commencement and Completion of Reconstruction

The Redeveloper shall commence to reconstruct or repair any Improvements and equipment on the Property, or any portion thereof, which have been destroyed or damaged prior to the expiration of the term of the Plan, within a period not to exceed six (6) months after the insurance or other proceeds with respect to such destroyed or damaged property have been received by the Redeveloper or any Mortgagee (or, if the conditions then prevailing require a longer period, such longer period as the Authority shall specify in writing), and shall well and diligently and with dispatch prosecute such reconstruction or repair to completion, such reconstruction or repair in any event to be completed within thirty (30) months after the start thereof.

ARTICLE VIII. RIGHTS, REMEDIES AND PROCEDURES IN THE EVENT OF A
BREACH BY REDEVELOPER

Section 801: Failure or Refusal by Redeveloper to Purchase Fee
Simple

(a) In the event that the Redeveloper shall fail or refuse to submit working drawings and specifications satisfactory to the Authority as provided in Section 302 of this Agreement, or shall fail or refuse to submit evidence satisfactory to the Authority that it has the necessary equity capital and commitments for mortgage financing as provided in Section 210, or shall (other than as provided in Section 211 of this Agreement) fail or refuse to complete the purchase and accept possession of the Property upon proper conveyance by the Authority pursuant to this Agreement, or there is any unauthorized change in the ownership or distribution of the beneficial interest of the Redeveloper or with respect to the identity of the parties in control of the Redeveloper or degree thereof, the Authority shall have the right to retain the deposits held by it pursuant to Section 203 as full liquidated damages, but not as a penalty, without any deduction or offset whatever and without further liability to the Authority on the part of the Redeveloper; and the Authority may, upon such failure or refusal, in its sole discretion terminate, by written notice to the Redeveloper, all of its obligations to the Redeveloper hereunder, in addition to retaining such deposits.

Section 802: Consequences of Breach by Redeveloper with Respect to
Commencement and Completion of Construction, Failure
to Pay Taxes or Discharge Encumbrances, or Unauthorized
Transfers of Interest.

In the event that, prior to completion of the improvements:

- (1) The Redeveloper shall fail to perform its obligations under this Agreement with respect to commencement, diligent prosecution, or completion of construction of Improvements;
- (2) The Redeveloper shall fail to pay any real estate taxes or assessments on the Property or any part thereof when due, or shall place or suffer to be placed thereon any encumbrances or liens other than the mortgage liens authorized by this Agreement; or
- (3) There is in violation of this Agreement any transfer of the Property or any part thereof, or any change in the ownership or distribution of the beneficial interest of the Redeveloper or with respect to the identity of the parties in control of the Redeveloper or degree thereof;

the Authority shall in writing notify the Redeveloper of such failure or violation and what steps should be taken to cure it. The Redeveloper shall thereupon have ninety (90) days from the receipt by it of such written notice to cure such failure or violation. If the Redeveloper does not take such steps within the 90-day period (or within such extended period of time as may be established by the Authority acting solely in its discretion) and if the holders of record of building loan agreements and/or first mortgages in replacement thereof do not exercise their rights to cure such violation or failure (as provided in Section 804 hereof), or if this contract is cancelled, terminated or suspended pursuant to Section 306 hereof the Redeveloper shall promptly transfer possession of, and reconvey, the Property together with all of the improvements thereon, to the Authority without cost to the Authority, by quitclaim deed, provided that such reconveyance (1) shall be subject to any existing building loan agreements and mortgages thereon permitted under this Agreement, and (2) shall not include any parcels with respect to which a Certificate of Completion has been issued pursuant to Section 304. In the event of such failure to cure, the Authority shall also have the right, to retain as its own the deposit then held by it without any deduction offset or recoupment whatsoever, and the Authority may also enforce its rights under the surety bond referred to in Section 210. In the event that the Redeveloper shall fail so to reconvey, the Authority may institute such actions or proceedings as it may deem advisable as well as proceedings to compel specific performance and the payment of all damages, expenses and costs.

In the event of a failure to cure under this Section, or if the contract is cancelled, terminated or suspended pursuant to Section 306, the Authority shall have the right to re-enter and take possession of the Property and to terminate (and revert in the Authority) the estate conveyed by the Deed to the Redeveloper, it being the intent of this, together with other provisions of this Agreement, that the conveyance of the Property to the Redeveloper shall be made upon, and that the Deed shall contain, a condition subsequent to the effect that in the event of such failure to cure, the Authority at its option may declare a termination in favor of the Authority of the title, and of all the rights and interest, in the Property and that such title, and all rights and interest of the Redeveloper, and any assigns or successors in interest, in the Property, shall revert to the Authority; provided, that such condition subsequent and any reversioning of title as a result thereof in the Authority: (1) shall always be subject to and limited by and shall not defeat, render invalid, or limit in any way the lien of

any mortgage authorized by this Agreement, or any rights or interests provided herein for the protection of the holders of such mortgages, and (2) shall not apply to Parcels of the Property with respect to which a Certificate of Completion has been issued pursuant to Section 304.

In the event that the Redeveloper or a mortgagee reconveys to the Authority, pursuant to this Section 802 or Section 403, or in the event the Authority shall re-enter pursuant to this Section 802, the Authority shall undertake with due diligence to resell the Property so reconveyed or which it has so re-entered, and the improvements thereon, subject to all of the provisions of the Plan; and the proceeds of such resale, together with the net income, if any, derived by the Authority from its operation and management of the Property subsequent to such reconveyance shall be used:

First: to reimburse the Authority for all costs and expenses reasonably and proximately incurred by the Authority, including the salaries of the Authority personnel, in connection with the recapture, management and resale of the Property and all administrative and overhead costs in connection therewith;

Next: to reimburse the Authority for expenditures made or obligations incurred with respect to the making or completion of improvements on the Property for which it has not otherwise been reimbursed;

Next: to pay all taxes, payments in lieu of taxes, public charges and other sums owing to the City with respect to the Property up to the time of such resale (or in the event the Property is exempt from taxation during the period of ownership thereof by the Authority, an amount equal to such taxes as would have been payable if the Property were not so exempt);

Finally: in the event that the Redeveloper reconveys or the Authority re-enters pursuant to this Section 802:

- (a) In their respective order of priority to pay any and all mortgage indebtedness and to make all and whatever payments may be necessary to discharge any other encumbrances or liens existing or threatened on the Property.
- (b) To pay or reimburse the Authority for any amounts otherwise owing to the Authority from the Redeveloper; and
- (c) If there is any balance of proceeds remaining, to use the balance of the proceeds to reimburse the Redeveloper for

and up to the amount expended by it in the purchase and improvement of the Property (but not including the deposit referred to in Section 203 hereof), less any profit theretofore realized by the Redeveloper from the disposition of any interest in the Property, and any net income realized by the Redeveloper from its use of the Property.

Any balance remaining shall remain the property of the Authority.

Finally: in the event that a mortgagee reconveys to the Authority pursuant to Section 403:

- (a) To make all and whatever payments may be necessary to discharge any other encumbrances or liens existing or threatened on the Property, and
- (b) To pay to the mortgagee the full amount (to the extent the balance of proceeds permits) of the mortgage indebtedness which would then have been due and owing if the mortgage (and the indebtedness secured thereby) had continued in full force and effect, together with all and whatever costs and expenses previously incurred by the mortgagee for which, under accepted principles of law and under the terms of the mortgage and the mortgage note, the mortgagee would be properly entitled to be reimbursed out of the proceeds of a foreclosure sale if a third person had been the purchaser thereat, less any net income realized by the mortgagee from its use of the Property.

Any balance remaining shall remain the property of the Authority.

Section 803: Notice of Breaches to Mortgagees

In the event that the Authority, pursuant to Section 802 of this Agreement gives written notice to the Redeveloper of a failure to commence or complete construction, the Authority shall forthwith furnish a copy of the notice to each of the mortgagees of record of the Property permitted under this Agreement. To facilitate the operation of this Section, the Redeveloper shall at all times keep the Authority provided with an up-to-date list of names and addresses of mortgagees and holders of building loan agreements from whom the Redeveloper has obtained loans for redevelopment operations. Any such mortgagee or holder may notify the Authority of its address and request that the provisions of Section 907 as they relate to notices apply to it. The Authority agrees to comply with any such request.

Section 804: Mortgagee May Cure Breach of Redeveloper

In the event that the Redeveloper received notice from the Authority of a failure to commence or complete construction, pur-

suant to Section 802 of this Agreement and such breach is not cured by the Redeveloper before the expiration of the ninety (90) day period provided for in Section 802, the holders of record of construction loan agreements and/or mortgages in replacement thereof may cure any such failure and complete the construction then in progress in accordance with the working drawings and specifications, the Plan and this Agreement upon giving written notice of their intention to do so to the Authority within fifteen (15) days after the expiration of the ninety (90) day period, or within sixty (60) days after such holder receives such notice of failure, whichever period is longer.

Anything in this Agreement to the contrary notwithstanding, including without limitation the provisions of Section 802 hereof, if the holder of any mortgage permitted by this Agreement gives written notice to the Authority within said 15-day period of its intention to proceed forthwith to foreclose said mortgage, the Authority will not require a reconveyance or re-enter and take possession until such holder shall have been permitted a reasonable time within which to complete its foreclosure proceedings.

Section 805: Remedies for Other Breaches

It is understood by the parties hereto that in the event any party shall fail to comply with or violate any of the provisions of this Agreement, then the other party hereto may institute such actions and proceedings as may be appropriate, including actions and proceedings to compel specific performance and payment of all damages, expenses, and costs. Neither these remedies nor that class of remedies more particularly described in this Agreement shall be exclusive unless specifically so described, provided however that the remedies prescribed in Sections 801 and 802 for the defaults therein described shall be exclusive.

ARTICLE IX. MISCELLANEOUS PROVISIONS

Section 901: Obligations and Rights and Remedies Cumulative and Separable

The respective rights and remedies of the Authority and Redeveloper, whether provided by this Agreement or by law, shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise, at the same or different times of any other such rights or remedies, provided however that the remedies prescribed in Sections 801 and 802 for the defaults therein described shall be exclusive.

Section 902: Finality of Approvals

Where, pursuant to this Agreement, any document or proposed action by the Redeveloper is submitted by it to the Authority, and the Redeveloper has been notified in writing by the Authority that the same is approved or is satisfactory, or that the Authority has consented thereto, such determination shall be conclusively deemed to be a final determination by the Authority with respect to such particular document or proposed action for which such approval or notice of satisfaction was given.

Where the consent, satisfaction, approval or certification of the Authority is required hereunder, the same shall not be unreasonably withheld and shall be given within a reasonable time.

Section 903: How Agreement Affected by Provisions Being Held Invalid

If any provisions of this Agreement are held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the requirements of applicable laws and of the Plan.

Section 904: Covenants to be Enforceable by Authority and United States

Any covenant herein contained which is expressed to be a covenant running with the land shall be contained in any instrument of conveyance relating to the Property and shall, in any event and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, the Authority (and the United States in the case of the covenant provided in Section 301(a)(3) hereof) against the Redeveloper (including its successors and assigns to or of the Property

or any part thereof or any interest therein and any party in possession or occupancy of the Property or any part thereof). In amplification, and not in restriction of the provisions hereof, it is intended and agreed that the Authority shall be deemed a beneficiary of such covenants and the United States shall be deemed a beneficiary of the covenant provided in Section 301(a)(3) hereof, both for and in their or its own right and also for the purposes of protecting the interests of the community and the other parties, public or private, in whose favor or whose benefit such covenants have been provided, and such covenants shall be in force and effect, without regard to whether the Authority or the United States has at any time been, remains or is an owner of or in possession of any land to, or in favor of, which the covenants relate.

It is the intention of the Authority that the covenants running with the land which are contained in any instrument of conveyance relating to the Property shall be enforceable only by the Authority (and the United States in the case of the covenant provided in Section 301(a)(3) hereof) and those holding title to an interest in the Property and that such covenants shall not be enforceable by transferees of other land owned by the Authority in the area covered by the Plan.

Section 905: Parties Barred from Interest in Project

No member of the Congress of the United States of America shall be admitted to any share or part hereof, or to any benefit to arise therefrom.

Section 906: Authority's Members and Officers Barred from Interest

(a) No member, official or employee of the Authority shall have any personal interest, direct or indirect, in this Agreement or the Redeveloper, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interest or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official or employee of the Authority shall be personally liable to the Redeveloper or any successor in interest in the event of any default or breach by the Authority or for any amount which may become due to the Redeveloper or to its successor or on any obligations under the terms of this Agreement.

(b) After the date hereinabove first written, the Redeveloper will not, without a prior finding by the Authority that such action is consistent with the public interest, employ in connection with

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its obligations under this Agreement, any person who has participated in the planning or execution of the Plan or related Project and who is named on any list which may be furnished by the Authority to the Redeveloper as having so participated, or permit any such person to directly or indirectly acquire an interest (except an interest based upon the ownership of its capital stock if such stock is publicly held or offered) in the Redeveloper or in the Property prior to the completion of the improvements thereon in accordance with this Agreement and the Plan.

(c) The Redeveloper covenants that he has not employed or retained any company or person (other than a full-time bona fide employee working for the Redeveloper) to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person (other than such an employee) any gift, contribution, fee, commission, percentage, or brokerage fee, contingent upon or resulting from the execution of this Agreement.

Section 907: Approvals and Notices

Except as otherwise specifically provided in this Agreement, whenever under this Agreement approvals, authorizations, determinations, satisfactions, consents certifications or waivers are required or permitted, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing signed by a duly authorized officer of the Authority or Redeveloper, and sent registered or certified mail, postage prepaid, to the principal office of the party to whom it is directed, which are as follows:

RedeveloperGovernment Center Developers Co.
% Samuel Poorvu
19 Congress Street
Boston, Massachusetts

Authority.....City Hall Annex
Boston, Massachusetts

The parties shall promptly notify each other of any change of their respective addresses set forth above.

Notices and other communications to any mortgagees and/or holders of construction loan agreements shall be sent registered or certified mail prepaid to the last known address of the party concerned.

Section 908: Matters to be Disregarded

The titles of the several articles and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

Section 909: Obligations to Continue

Except as to obligations to be performed at or prior to the time of closing of the sale and conveyance of fee simple title to and delivery of possession of the Property, the provisions of this Agreement shall survive the time of closing and the sale and conveyance of fee simple title to and the delivery of possession of the Property to the Redeveloper, but shall not survive issuance of the Certificate of Completion by the Authority except to the extent stated in the deed.

Section 910: Excusable Delays

For the purposes of any of the provisions of this Agreement, neither the Authority nor the Redeveloper, as the case may be, shall be considered in breach of or default in its obligations with respect to the preparation of the Property for Redevelopment, or the beginning and completion of construction of the Improvements, or progress in respect thereto, in the event of unavoidable delay in the performance of such obligations due to causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Authority with respect to the preparation of the Property for redevelopment or of the Redeveloper with respect to construction of the improvements, as the case may be, shall be extended for the period of the enforced delay: Provided, that the party seeking the benefit of the provisions of this Section shall, within a reasonable period after the beginning of any such enforced delay, have first notified the other party thereof in writing stating the cause or causes thereof and requested an extension for the period of the enforced delay. In calculating the length of the delay, the Authority shall consider not only actual work stoppages but also any consequential delays resulting from such stoppages as well. In no event shall any financing difficulty be a cause for an extension hereunder.

6/10/68

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IN WITNESS WHEREOF, on the _____ day of _____, 1968,
at Boston, Massachusetts, the parties hereto have caused this
Agreement in five counterparts to be signed, sealed and delivered
by their duly authorized officer or agent, respectively.

BOSTON REDEVELOPMENT AUTHORITY

Signed, sealed and delivered
in the presence of:

By _____
Hale Champion
Development Administrator

GOVERNMENT CENTER DEVELOPERS

By _____

Approved as to form:

John C. Conley, General Counsel

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

DATE _____ 1968

Then personally appeared before me the above-named
Hale Champion
who executed the foregoing Instrument on behalf of Boston
Redevelopment Authority and acknowledge the same to be the free
act and deed of said Authority.

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

DATE _____ 1968

Then personally appeared before me the above-named
who executed the foregoing Instrument on behalf of Government Cen-
ter Developers and acknowledge the same to be the free act and
deed of said Corporation.

Notary Public
My commission expires

7/24/68

DEED

BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate, created pursuant to Chapter 121, Section 26QQ of the Massachusetts General Laws (Ter. Ed.), as amended in consideration of \$138,234.90, grants unto GOVERNMENT CENTER DEVELOPERS COMPANY, a limited partnership organized under the General Laws of Massachusetts with its principal office in Boston, Massachusetts, with QUITCLAIM COVENANTS, the land in Boston, Suffolk County, bounded and described as follows, and all as shown as Parcel 2B on a plan entitled "Government Center Project, Mass. R-35 Property Line Map, Parcel 2 Boston Redevelopment Authority, Boston - Suffolk County - Massachusetts," by Whitman and Howard, Inc., Engineers, dated April 20, 1966, revised October 27, 1966, March 30, 1967 and August 21, 1967:

NORTHEASTERLY	by New Chardon Street, by a curved line one hundred fifteen and 75/100 (115.75) feet;
SOUTHEASTERLY	one hundred twenty-nine and 79/100 (129.79) feet;
SOUTHWESTERLY	one hundred seventeen and 72/100 (117.72) feet;
NORTHWESTERLY	to point of beginning one hundred eight and 08/100 (108.08) feet.

The premises are granted together with the fee to the center line of New Chardon Street, the center line of proposed Bulfinch Place, and the center line of proposed Mayhew Way as they abut the premises, as these streets and malls are shown on the above-mentioned plan, subject to the rights of the public in such streets and malls; and together with a permanent easement for access to the granted premises along Bulfinch Place, to pass and repass by foot or vehicle for purpose of maintenance and receiving deliveries. provided

that (1) such easement shall not be exclusive but shall allow New England Telephone Company similar use of Bulfinch Place for access to its building abutting thereon and (2) such easement shall be subject to an easement of the City of Boston for public travel by foot on Bulfinch Place and for emergency vehicle use.

The Grantee agrees for itself, its successors and assigns, that upon the laying out or taking by the City of Boston of streets abutting the granted premises, as shown on the Plan attached hereto as Exhibit A no claim for damages by reason of such laying out or taking will be made so long as such laying out or taking excludes or is made subject to all structural elements of the building to be constructed in, on, or under the granted premises.

The Grantee covenants for itself, its successors and assigns:

- A. Until May 25, 2004, to devote the granted premises to and only to the permitted uses and subject to the applicable limitations of the Urban Renewal Plan of the Government Center Project Area, on file at the office of the City Clerk of the City of Boston, or as the same may be from time to time modified in accordance with the provisions therein contained (which Urban Renewal Plan, together with such modifications is hereinafter referred to as the "Plan"), provided, however, that no such amendment shall affect the premises without the consent of the Grantee.
- B. Until May 25, 2004, to give preference in initial leasing of space in the improvements existing or to be constructed on the granted

premises to former commercial occupants of the Government Center Urban Renewal Area to the maximum extent practicable. The Grantee covenants and agrees to take affirmative action to give maximum effect to this covenant, and particularly covenants and agrees not to enter into agreements, leases, or other arrangements with lessees, tenants, or others pursuant to which the Grantee agrees not to lease space to any other commercial firm or firms, for any reason whatsoever, where the direct or indirect effect of the same would be to diminish the benefits to former commercial occupants intended by this covenant.

- C. Until 100 years from the date hereof, not to discriminate upon the basis of race, creed, color or national origin in the sale, lease or rental, or in the use or occupancy of the property or any improvements erected, or to be erected thereon or any part thereof.
- D. Until May 25, 2004, from time to time, at all reasonable hours to give to the duly authorized representatives of the Grantor, the United States and the City of Boston, free and unobstructed access for inspection purposes to any and all of the improvements, existing or to be constructed, on the granted premises and to all open areas surrounding the same.
- E. Until May 25, 2004, or until the building upon the property becomes uninsurable, whichever period is shorter, to keep the improvements, existing or to be constructed on the granted premises, in good and safe condition and repair and in the occupancy, maintenance and operation of such improvements

and the granted premises comply with all laws, ordinances, codes and regulations applicable thereto.

- F. After the improvements to be constructed by the Grantee on the granted premises or any portion thereof have been completed and until May 25, 2004, not to reconstruct, demolish or subtract therefrom or make any additions thereto or extensions thereof which would (1) affect the external appearance of the building (including roof and penthouse) in any way or (2) effect any changes in materials, design, dimensions or color in the public lobbies, entrances, arcades or open spaces without the prior written approval of the Grantor. Any such reconstruction, demolition, subtraction, addition or extension shall, in all respects, conform to the provisions of the Plan.

In the event that the Grantee shall fail to comply with the foregoing requirement, the Grantor may within a reasonable time after its discovery thereof, direct in writing that the Grantee so modify, reconstruct or remove such portion, or portions, of the improvements as were reconstructed, demolished or subtracted from or added to or extended without the prior written approval of the Grantor. The Grantee shall promptly comply with such a directive and shall not proceed

further with such reconstruction, demolition, subtraction, addition or extension until such directive is complied with.

- G. Until May 25, 2004, to keep all the insurable property and equipment on the granted premises insured for fire and extended coverage insurance and additional risk insurance to the same extent and amount which is normally required by institutional mortgagees in use of similar property or equipment in the city. Such insurance shall be in amounts sufficient to comply with the co-insurance clause applicable to the location and character of the property or equipment and, in any event, in amounts of not less than 80 per centum (or 80 per centum in the case of extended coverage insurance) of the current cash value of such property or equipment. All such insurance shall be by standard policies obtained from financially sound and responsible insurance companies authorized to do business in Massachusetts; and shall have attached thereto a clause making the loss payable to the Grantee, the Mortgagee (if any) and, subject to the

rights of any Mortgagee, the Grantor, as their respective interests may appear.

Each insurance policy shall be written to become effective at the time the Grantee becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for the period the Grantee is subject to such risk or hazard.

In the event the Grantee at any time refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required, the Grantor at its option may procure or renew such insurance and all amounts of money paid therefor by the Grantor shall be payable by the Grantee to the Grantor with interest thereon at the rate of six per centum (6%) per annum from the date the same were paid by the Grantor to the date of payment thereof by the Grantee. The Grantor shall notify the Grantee in writing of the date, purposes, and amounts of any such payments made by it.

- H. Until May 24, 2004, if any improvement or part thereof existing or to be constructed on the granted premises shall have been damaged or destroyed to proceed promptly to establish and collect all valid claims which may have arisen

against insurers or others based upon any such damage or destruction. All proceeds of any such claim and any other monies provided for the reconstruction, restoration or repair of any such improvement shall be deposited in a separate account of the Grantee, its successors and assigns, or any Mortgagee. The insurance money and any other proceeds so collected shall be used and expended for the purpose of fully repairing or reconstructing the improvements which have been destroyed or damaged to a condition at least comparable to that existing at the time of such damage or destruction to the extent that such insurance money and other proceeds may permit, unless the Grantee, its successors and assigns, with the written approval of the Grantor and any Mortgagee, shall determine that all or any part of such damage or destruction shall not be so reconstructed, restored or repaired, in which case the insurance money and any other proceeds so collected shall be retained by the Grantee, subject to the rights of any Mortgagee. If there be any excess proceeds after reconstruction or repairs have been fully completed, such

excess shall be retained by the Grantee subject to the rights of any Mortgagee.

The Grantee, its successors and assigns shall commence such reconstruction or repair within a period not to exceed 6 months after such money or proceeds are received by the Grantee, its successors or assigns or any Mortgagee (or if the conditions then prevailing require a longer period then for such longer period as the Grantor may specify in writing) and shall well and diligently and with dispatch prosecute such reconstruction or repair to completion within 24 months after the start thereof.

The covenants set forth above shall run with the land hereby conveyed and shall be to the fullest extent permitted by law and equity binding for the benefit and in favor of and enforceable by the Grantor and any successor public agency designated by or pursuant to law (and the United States in the case of covenant C hereof) against the Grantee (including its successors and assigns to or of the granted premises or any part thereof or any interest therein and any party in possession or occupancy of the granted premises or any part thereof), both for and in their own rights and also for the purpose of protecting the community and other parties,

public and private, in whose favor and for whose benefit such covenants are provided and such covenants shall be in force and effect without regard to whether the Grantor or any such successor or the United States remains or is an owner of, or in possession of any land to, or in favor of, which the covenants relate but shall not be enforceable by transferees of other land owned by the Grantor in the area covered by the Plan; and such covenants shall not be binding on any owner or person in possession or occupancy except for his period of ownership, possession or occupancy.

This conveyance is made subject to and with the benefit of the additional terms and conditions set forth in a Land Disposition Agreement dated , 1968, by and between the Grantor and the Grantee hereto and recorded herewith, which Land Disposition Agreement provides, among other things, covenants with respect to the beginning and completion of the improvements to be constructed on the granted premises, which covenants, until the recording of a certificate of completion as hereinafter described, shall be deemed to be covenants running with the land.

All said additional terms and conditions contained in said Land Disposition Agreement except only the matters set forth in this deed shall, upon completion of said required improvements on the granted premises and the recording and registration of a certificate

of completion, cease and be of no further effect. Said certificate shall be a conclusive determination of satisfaction and termination of the agreements and covenants in said agreement and this deed with respect to the obligation of the Grantee, its successors and assigns to construct the improvements and the dates for the beginning and completion thereof and the conformity of such improvements to the plan.

IN . IN WITNESS THEREOF on this day of 1968 at
Boston, Massachusetts, the parties hereto have caused this instrument in five counterparts to be signed, sealed and delivered by their duly authorized officers, respectively.

BOSTON REDEVELOPMENT AUTHORITY

WITNESS: _____

BY _____
HALE CHAMPION
DEVELOPMENT ADMINISTRATOR

GOVERNMENT CENTER DEVELOPERS

WITNESS: _____

BY _____

APPROVED AS TO FORM

John Conley, General Counsel

MEMORANDUM

July 25, 1968

TO: BOSTON REDEVELOPMENT AUTHORITY
FROM: HALE CHAMPION, DEVELOPMENT ADMINISTRATOR
SUBJECT: PROJECT MASS. R-35
DISPOSITION - GOVERNMENT CENTER PARCEL 2B

1112
7/25

SUMMARY: This memo recommends approval of (1) a new development entity; (2) a revised building design (3) a minor change in the renewal plan; (4) a disposition agreement and (5) a proposed deed.

On June 13, 1968, I reported to you with respect to negotiations which had been carried on with the developers of Parcel 2B in Government Center. A copy of that memo is attached. Pursuant to your approval of the general procedure outlined in that memo, we are submitting today for your approval the following matters:

1. Change in development entity.

The previously designated developer, Robert Grimes has been superseded by a new partnership consisting of:

Kidder Peabody Realty Corp.	46.375%
Samuel Poorvu & Lawrence Schlager	46.375%
Robert Grimes & Robert Broderick	7.25%

New Redeveloper's Statements for Public Disclosure and for Financial Responsibility have been submitted, as well as financial statements, mortgage commitments, and the partnership agreement. As required by Federal regulations, Robert Grimes has executed a no-profit statement, and an explanation of the transfer.

Also submitted is a request that the Fidelity Mutual Insurance Co., the permanent mortgagee, be permitted to become an equity partner in the amount of 30.91-2/3% upon the permanent mortgage closing. At that time the property owners would be:

Fidelity Mutual Insurance Co.	30.91-2/3%
Kidder Peabody Realty	30.91-2/3%
Poorvu & Schlager	30.91-2/3%
Grimes & Broderick	7.25%

Appropriate votes are attached as Votes #1, #2 and #3.

2. Revised building design

The architects, Fred Bruck and Mark Kiley, have submitted revised building elevations showing the two additional stories mentioned in our memo of June 13. These plans have been approved by our design department, and we request your approval by adoption of Vote #4.

3. Change in renewal plan

Addition of the two stories requires appropriate changes in the Urban Renewal Plan controls relating to Parcel 2B. These changes have been cleared with the other Parcel 2 Mall abutters, who do not object, and I recommend your approval thereof by adoption of Vote #5.

4. Disposition Agreement

A proposed disposition agreement with the new development entity is attached. It is in the usual form, and provides for conveyance on August 15, with construction to start September 1. The proposed purchase price of \$9.85 per square foot is based upon a recent reappraisal of the site, reflecting the revised plan controls.

Vote #6 is in the Federally approved form and I recommend your adoption thereof.

5. Deed

A proposed deed is attached. It is in the usual form and is consistent with the land disposition agreement and other documents. A vote in recordable form is attached as #7.